

**CRIMINAL MISCHIEF
FIRST DEGREE
(B Felony)
(Intentionally Damaging Another's Property By Explosive)
PENAL LAW 145.12
(Committed on or after Sept. 1, 1971)
(Revised January 5, 2009)¹
(Revised December 17, 2009)²**

The ___ count is Criminal Mischief in the First Degree.

Under our law, a person is guilty of Criminal Mischief in the First Degree when with intent to damage property of another person, and having no right to do so nor any reasonable ground to believe that he or she has such right, that person damages property of another person by means of an explosive.

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms: "intent" [and "property of another."]

INTENT means conscious objective or purpose.³ Thus, a person intends to damage property of another person when his or her conscious objective or purpose is to damage property of another person.

[PROPERTY OF ANOTHER includes all property in which another person has an ownership interest, whether or not a person who damages the property, or any other person, may also

¹ This charge was revised in January, 2009 to incorporate the legislative enactment of a statutory definition of "property of another" (Penal Law § 145.13).

² This charge was revised in December, 2009 to incorporate the legislative enactment of an amendment to the statutory definition of "property of another" (Penal Law § 145.13; L. 2009, c.45, § 2).

³ See Penal Law § 15.05(1).

have an interest in the property.]⁵

In order for you to find the defendant guilty of this crime, the People are required to prove, from all of the evidence in the case beyond a reasonable doubt, each of the following three elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), damaged property of another person by means of an explosive;
2. That the defendant did so with the intent to damage property of another person; and
3. That the defendant had no right to cause such damage nor any reasonable ground to believe he/she had such right.

Therefore, if you find that the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of the crime of Criminal Mischief in the First Degree as charged in the ___ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of the crime of Criminal Mischief in the First Degree as charged in the ___ count.

⁵ Penal Law § 145.13. The modifying word “such” contained in the statute has been replaced here with “the” for clarity.